

**OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE
SAN FERNANDO REDEVELOPMENT AGENCY**

MEMORANDUM

TO: Chairperson Judith N. Frank and Oversight Board Members

FROM: Al Hernández, City Administrator

DATE: October 11, 2012

SUBJECT: Approval and Transmittal of the Due Diligence Review for the Low and Moderate Income Housing Fund in Accordance with Health and Safety Code Section 34179.5

RECOMMENDATION:

It is recommended that the Oversight Board of the Successor Agency to the San Fernando Redevelopment Agency:

- a. Adopt a Resolution (Attachment “A”) approving the Due Diligence Review of the Low and Moderate Income Housing Fund conducted pursuant to Health and Safety Code Section 34179.5 and taking certain other actions in connection therewith;
- b. Approve the Due Diligence Review for the Low and Moderate Income Housing Fund (Attachment “B”) pursuant to Health and Safety Code Section 34179.5, subject to the following adjustments: Clarifying language regarding why housing assets are more than the total assets transferred (deficit balance of \$217,609 in pooled cash) (Section 1 Response);
- c. Authorize the Successor Agency to retain the assets and funds, if any, identified in subparagraphs (B) to (E), inclusive, of paragraph (5) of subdivision (c) of Section 34179.5, as documented in the Due Diligence Review (the “Restricted Assets”); and
- d. Order the transmittal of the Due Diligence Review to the Department of Finance and the County Auditor-Controller.

BACKGROUND/ANALYSIS:

Pursuant to Health and Safety Code Section 34179.5, each Successor Agency must employ a licensed accountant, approved by the County Auditor-Controller and with experience and expertise in local government accounting, to conduct a due diligence review to determine the unobligated balances available for transfer to taxing entities.

Each review must determine the net balance of the Low and Moderate Income Housing Fund (the LMIHF) and specifically the amount of cash and cash equivalents determined to be available for allocation to taxing entities as of June 30, 2012 (the Due Diligence Review). In summary, such amount is determined by determining the total value of assets and cash and cash equivalents in the LMIHF and subtracting the following Restricted Assets: (1) restricted funds, (2) assets that are not cash or cash equivalents, (3) amounts that are legally or contractually dedicated or restricted for the funding of an enforceable obligation, and (4) amounts that are needed to satisfy obligations that will be put on the Recognized Obligation Payment Schedule (ROPS) for the current fiscal year. Also, the amount determined to be available for allocation to taxing entities includes the value of assets, cash and cash equivalents transferred after January 1, 2011 through June 30, 2012 by the former Redevelopment Agency or the Successor Agency to the City, another public agency or private person if an enforceable obligation to make that transfer did not exist. The Due Diligence Review documents the Restricted Assets and provides the respective amounts, sources and purposes for which the Restricted Assets should be retained.

Health and Safety Code Section 34179.6 requires each Successor Agency to submit the Due Diligence Review to the Oversight Board for the Oversight Board's review and approval.

Upon receipt of the Due Diligence Review, the Oversight Board must convene a public comment session to take place at least five business days before the Oversight Board holds the approval vote. The Oversight Board also must consider any opinions offered by the County Auditor-Controller on the review results submitted by the Successor Agency.

By October 15, 2012, the Oversight Board must review, approve, and transmit the Due Diligence Review to the State Department of Finance (DOF) and the County Auditor-Controller. The Oversight Board may adjust any amount provided in the review to reflect additional information and analysis. The review and approval must occur in public sessions. The Oversight Board may request from the Successor Agency any materials it deems necessary to assist in its review and approval of the determination.

Section 34179.6 empowers the Oversight Board to authorize a Successor Agency to retain the Restricted Assets.

The DOF must complete its review of the Due Diligence Review no later than November 9, 2012, and must notify the Oversight Board and the Successor Agency of its decision to overturn any decision of the Oversight Board to authorize a Successor Agency to retain Restricted Assets. The DOF must provide the Oversight Board and the Successor Agency an explanation of its basis for overturning or modifying any findings, determinations, or authorizations of the Oversight Board. The Successor Agency then has the option to meet and confer with DOF to discuss any modifications.

By December 1, 2012, the County Auditor-Controller must provide DOF a report specifying the amount submitted by each Successor Agency from the LMIHF, and specifically noting any Successor Agency that failed to remit the full required amount.

Section 34179.5 also requires a similar review of all other funds and accounts held by the Successor Agency to determine unobligated balances available for transfer to taxing entities. The review for all other funds and accounts must be completed by December 15, 2012 and the County Auditor-Controller has an April 20, 2013 deadline to provide DOF the report specifying the amount submitted by each Successor Agency from all other funds and accounts, and specifically noting any Successor Agency that failed to remit the full required amount.

Upon full payment of the amounts determined in the Due Diligence Review and the subsequent review conducted for all other funds and accounts, payment of the “surplus” tax revenues due on July 12, 2012, and any unpaid or underpaid pass through payments owed for Fiscal Year 2011-12, DOF will issue to the Successor Agency, within five business days, a finding of completion of the requirements of Section 34179.6.

Eadie and Payne, LLP, Certified Public Accountants and Consultants were retained by the Successor Agency to conduct the Due Diligence Review.

The Oversight Board held the required public comment session regarding the Due Diligence Review on September 26, 2012.

CONCLUSION:

The Oversight Board should approve the Due Diligence Review for the Low and Moderate Income Housing Fund to comply with Health and Safety Code Section 34179.5.

BUDGET IMPACT:

None; there is no budget impact.

ATTACHMENTS:

- A. Resolution
- B. Due Diligence Review Report